

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

EARL BROWN,

Plaintiff,

v.

CIVIL ACTION NO. 3:19-cv-240
(Jury Trial Demanded)

TC EXPRESS, LLC,

Defendant.

**AGREED ORDER REMANDING
CASE TO STATE COURT**

This Matter is before the Court on Defendant's Notice of Removal [DKT #1] and Plaintiff's Motion to Remand [DKT # 5].

Procedural History

Plaintiff filed his Complaint in the Circuit Court of Noxubee County, Mississippi on February, 25, 2019. The Complaint asserted claims of negligence against Defendant and further alleged Defendant failed to follow the guidelines of the Americans with Disabilities Act.

The Defendant was served process on or about March 14, 2019. Defendant removed this case to this Court on April 5, 2019. The case was removed within thirty days of service of process on the Defendant. Defendant removed the case pursuant to 28 U.S.C. §§ 1331, 1441 and 1446. Defendant removed the case based on perceived federal question jurisdiction. Specifically,

Defendant's Notice of Removal [DKT # 1] alleged Plaintiff's Complaint contained claims based on federal law under the Americans with Disabilities Act.

On April 25, 2019, Plaintiff filed his Motion to Remand and Authorities in Support [DKT # 5]. Plaintiff's Motion to Remand clarified that his cause of action simply relates to a "garden variety state law claim of negligence. . ." Plaintiff's Motion to Remand is not asserting a separate cause of action under the Americans with Disabilities Act. Therefore, the parties agree that federal question jurisdiction is lacking.

IT IS THEREFORE ORDERED AND ADJUDGED, that this matter be remanded to the Circuit Court of Noxubee County, Mississippi for further adjudication and disposition.

IT IS SO ORDERED, this the 18th day of June, 2019.

s/ HENRY T. WINGATE

Henry T. Wingate
United States District Court Judge

Agreed to and approved:

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